

H A R V I S
W R I G H T
& F E T T

305 BROADWAY, 14TH FLOOR
NEW YORK, NEW YORK 10007
TEL: (212) 323-6880
FAX: (212) 323-6881
www.hwandf.com

GABRIEL P. HARVIS
gharvis@hwandf.com
CHRISTOPHER D. WRIGHT
cwright@hwandf.com
BAREE N. FETT
bfett@hwandf.com

May 27, 2015

BY ECF

Honorable Vera M. Scanlon
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Mack v. City of New York, et al.*, 14 CV 6538 (KAM) (VMS)

Your Honor:

I represent plaintiff in the above-referenced action. I write to respectfully request: 1) with defendants' consent, a further 30-day extension of time to amend the complaint until June 26, 2015; and 2) an order directing defendants to serve discovery responses by a date certain. Pursuant to Local Civil Rule 37.3(a), plaintiff certifies that her counsel has conferred with defense counsel extensively in good faith prior to making this application in an effort to obtain the relief requested without Court intervention.

By letter dated April 16, 2015, the undersigned, on consent, requested a 30-day extension of the original amendment deadline, based on plaintiff's belief that additional unidentified officers were present at the scene of her arrest. Plaintiff's April 16th application was granted by order dated April 17, 2015.

In order to identify the officers present for and involved in the disputed events, plaintiff served discovery demands by hand at the initial conference on March 2, 2015, seeking, *inter alia*, the roll call, TAC plan, Sprint report, memo books, officer photographs and other relevant paperwork.¹ Defendants' responses were due 30 days later, i.e. on April 1, 2015. From mid-April to mid-May, plaintiff repeatedly reminded defendants of their overdue responses. When the responses were not received, plaintiff notified defendants by e-mail on May 18, 2015, that plaintiff intended to submit the instant application. The parties conferred by telephone on May 20, 2015, at which time defense counsel represented that defendants' responses would be

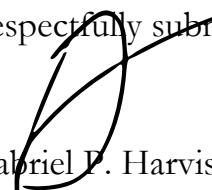
¹ As of this writing, defendants have produced a total of 11 pages of documents to plaintiff.

served by May 26, 2015. Yesterday afternoon, defense counsel telephoned the undersigned requesting consent to serve defendants' responses this morning. Plaintiff consented. At this time, neither the responses nor any further communication from defendants has been received.

Accordingly, plaintiff respectfully requests: 1) with defendants' consent, a further 30-day extension of time to amend the complaint until June 26, 2015; and 2) an order pursuant to Fed. R. Civ. P. 37(a)(3)(B)(iii)-(iv) directing defendants to serve discovery responses by a date certain. *See Mill v. Midpoint Resolution Group LLC*, 08-CV-3791 (TCP) (AKT), 2009 WL 1748725, *2 (E.D.N.Y. June 18, 2009) (granting plaintiffs' motion to compel overdue discovery responses and holding that “[a]s a result of Defendants' failure to serve timely responses or assert objections in a timely manner, as well as their failure to show good cause for not responding to the interrogatories, all potential objections to Plaintiffs' discovery requests are waived”) (internal citations omitted).

I thank the Court for its consideration of this request.

Respectfully submitted,


Gabriel P. Harvis

cc: David Pollack, Esq.